

Department of Social and Health Services

DP Code/Title: PL-KG BCCU Request Legislation

Program Level - 010 Children's Administration

Budget Period: 2007-09 Version: A1 010 - 2007-09 Agency Request Budget

Recommendation Summary Text:

The Department of Social and Health Services (DSHS) requests \$844,000 and 1.3 FTEs beginning July 1, 2007 to fund request legislation that will move background check requirements from 13 existing statutes to the DSHS Secretary's authority under Chapter 43 RCW.

Fiscal Detail:

Operating Expenditures

	<u>FY 1</u>	<u>FY 2</u>	<u>Total</u>
Overall Funding			
001-1 General Fund - Basic Account-State	3,000	3,000	6,000
001-A General Fund - Basic Account-DSHS Fam Support/Chi	1,000	1,000	2,000
Total Cost	4,000	4,000	8,000

Staffing

Package Description:

DSHS requests \$844,000 and 1.3 FTEs for the 2007-09 Biennium to cover increased workload to the Background Check Central Unit (BCCU), Board of Appeals (BOA) and estimated increased billings due to fair hearings by the Office of Administrative Hearings (OAH).

Consolidating and revising DSHS background check requirements gives continuity, consistency and certainty for DSHS employees and service providers. The proposed amendments impact name and date of birth background checks for DSHS service providers and DSHS employees working with vulnerable adults, juveniles and children; requires all providers to conduct rechecks at regular intervals after an initial background check; and requires DSHS employees to be rechecked every two years.

The proposal also reduces the current three lists of disqualifying crimes to one list that is applied to both providers and DSHS employees.

The DSHS programs with specific statutory authority to conduct national fingerprint-based checks will retain the authority to conduct national checks. Federal regulations do not allow the current WA statutes requiring fingerprint-based checks to be applied to other programs without specific statutory authority.

Narrative Justification and Impact Statement

How contributes to strategic plan:

The proposed legislation supports the department's mission by reducing the risk of harm to vulnerable adults, juveniles and children by creating consistent background check requirements across all DSHS programs.

The proposal supports Goal G, Objective 3 of the Agency Strategic Plan by creating one clear DSHS background check statute that is applied to service providers and department employees alike. Uniform requirements for providers and DSHS employees will increase efficiency by locating all DSHS background check statutes under the Secretary's authority and will promote public trust because DSHS employees and providers will be treated the same.

Performance Measure Detail

Agency Level

Department of Social and Health Services

DP Code/Title: PL-KG BCCU Request Legislation
Program Level - 010 Children's Administration

Budget Period: 2007-09 Version: A1 010 - 2007-09 Agency Request Budget

Activity: A012 Child Welfare Services (CWS)
No measures linked to package

Incremental Changes	
<u>FY 1</u>	<u>FY 2</u>
0.00	0.00

Reason for change:

The Joint Legislative Task Force on Background Check Processes has raised concerns that DSHS has no recheck requirements for DSHS employees and that the current standards for service providers and DSHS employees are inconsistent.

Multiple background check laws result in inconsistent requirements and varying lists used to disqualify department service providers and DSHS employees in covered positions from unsupervised access to vulnerable adults, juveniles and children.

Providing one location under the Secretary for the 13 DSHS background check laws will reduce provider confusion; eliminate the need for program-specific background check rules; develop a uniform DSHS process; and ensure DSHS employees are treated the same as service providers.

Impact on clients and services:

Services to those providers who conduct background checks through BCCU will be enhanced by applying one statute leading to one set of rules and clear background check requirements.

DSHS/BCCU processes checks on department employees and service providers, their employees, volunteers and student interns who will or may have unsupervised access to vulnerable adults, juveniles and children. BCCU currently employs ten FTEs to process approximately 275,000 background checks annually. Approximately 7,600 of these checks are national fingerprint-based checks; the remaining are Washington State name and date of birth checks.

Department employees working in covered positions are not currently required to have their background rechecked after initial employment unless they move to another covered position in a different classification or a different administration. This proposal requires the department to recheck DSHS employees every two years. BCCU conducts approximately 5,800 DSHS employee background checks annually. Processing employee rechecks will increase the volume of workload for BCCU staff.

This proposal also requires rechecks for providers and their employees, volunteers, and student interns at license, contract, and certification or authorization renewal. This request is for 1.3 FTE to respond to the overall additional workload impact to BCCU and BOA.

Potential impact to other programs and potential future impact on BCCU workload.

Nursing homes: This proposal may impact workload and costs in nursing homes licensed by Aging and Disability Services Administration. The proposed legislation requires nursing homes to conduct rechecks at license renewal which is not currently required. If the nursing home industry determines the change will add an administrative workload increase, the current nursing home reimbursement rate may be impacted. Fair hearing costs are anticipated due to disqualification of some providers.

DASA & MH: This proposal may also impact services contracted by the Division of Alcohol and Substance Abuse (DASA) and/or the Mental Health Division (MHD). Currently DASA and MH providers, sub-contractors, employees, volunteers and student interns serving vulnerable people are not required by the department to conduct background checks through BCCU. These providers conduct background checks directly through the Washington State Patrol (WSP) internet Washington Access to Criminal History (WATCH) system by paying \$10.00 for each name checked. The requirement to conduct background rechecks at renewal of contract, certification or licensure will increase these providers WSP background check

Department of Social and Health Services

DP Code/Title: PL-KG BCCU Request Legislation

Program Level - 010 Children's Administration

Budget Period: 2007-09 Version: A1 010 - 2007-09 Agency Request Budget

costs and may add to their administrative workload costs.

Note: If the department requires DASA and MHD programs to conduct background checks through BCCU the cost to the department will be based on volume of background checks. The estimated cost per check through BCCU is approximately \$3.19. This would also impact the BCCU workload and may require an additional FTE adjustment based on volume.

Impact on other state programs:

Workload impact for the WSP will be minor because background information is electronically accessed by BCCU and electronically processed by the WSP.

Removing DSHS from the WSP statutes will not impact the process or practice of the WSP. The WSP supports this proposal.

This proposal will repeal a statute that requires the Department of Personnel (DOP) to write rules for DSHS employee background checks. No impact to DOP is anticipated except the administrative process to repeal the WAC that corresponds with the statute.

Note: DOP is not required to regulate any other department of WA that requires background checks of state employees such as the School for the Blind, Superintendent of Public Instruction, Department of Licensing and many others.

We estimate an increased workload by OAH due to an increase in fair hearing requests by disqualified providers.

Relationship to capital budget:

None

Required changes to existing RCW, WAC, contract, or plan:

State law impacted by this proposal:

RCW 41.06.475 (DOP) - HRD - DSHS employees
RCW 43.20A.710 - ADSA - ADSA/HCS
RCW 43.43.830 - All administrations
RCW 43.43.832 (WSP)- All administrations
RCW 43.43.834 (WSP)- All administrations
RCW 43.43.842 (WSP) - ADSA & DOH
RCW 70.128.130 - ADSA/RCS
RCW 70.129.130 - ADSA/RCS
RCW 71.09.115 - SCC
RCW 71.09.300 - SCC
RCW 72.05.440 - JRA
RCW 72.23.035 - HRSA
RCW 74.15.030 - CA, DDD and ESA

State administrative codes impacted by this proposal:

1. Chapter 246-335 WAC - IN-HOME SERVICES AGENCIES
 - " WAC 246-335-045 - Department responsibilities
 - " WAC 246-335-145 Initial application.
 - " WAC 246-335-150 Renewal.

Department of Social and Health Services

DP Code/Title: PL-KG BCCU Request Legislation
Program Level - 010 Children's Administration

Budget Period: 2007-09 Version: A1 010 - 2007-09 Agency Request Budget

2. Chapter 246-337-055 WAC RESIDENTIAL TREATMENT FACILITY
" WAC 246-337-055 Personnel criminal history, disclosure, and background inquiries.
3. Chapter 257-10 WAC REFERRAL REGISTRY
" WAC 257-10-120 What qualifies individual providers or prospective individual providers to be included on the referral registry?
4. Chapter 388-06 WAC BACKGROUND CHECKS -
" The entire WAC will be repealed and replaced.
5. Chapter 388-71 WAC - HOME AND COMMUNITY SERVICES AND PROGRAMS
" WAC 388-71-0540 - When will the department, AAA, or managed care entity deny payment for services of an individual provider or home care agency provider?
" WAC 388-71-0546 - When can the department, AAA, or managed care entity reject the client's choice of an individual provider?
" WAC 388-71-0752 Adult day center -- Staffing requirements.
6. Chapter 388-76 WAC ADULT FAMILY HOMES MINIMUM LICENSING REQUIREMENTS
" WAC 388-76-535 Authority
" WAC 388-76-540 Definitions.
" WAC 388-76-560 License eligibility.
" WAC 388-76-685 Criminal history disclosure and background inquiries.
7. Chapter 388-78A WAC - BOARDING HOME LICENSING RULES
" WAC 388-78A-2020 Definitions.
" WAC 388-78A-2470 - Criminal history background checks
" WAC 388-78A-3190 Denial, suspension, revocation, or non renewal of license statutorily required
" WAC 388-76-560 License eligibility
" WAC 388-76-685 Criminal history disclosure and background inquiries.
8. Chapter 388-97 WAC NURSING HOMES
" WAC 388-97-005 - Definitions "Disclosure Statement"
" WAC 388-97-076 - Prevention of Abuse
" WAC 388-97-202 - Criminal history disclosure and background inquiries
" WAC 388-97-203 - Disqualification from nursing home employment
" WAC 388-97-570 - Reasons for denial, suspension, modification, revocation of, or refusal to renew a nursing home license
9. Chapter 388-101 WAC CERTIFIED COMMUNITY RESIDENTIAL SERVICES AND SUPPORTS
" WAC 388-101-1660 Who needs background checks?
10. Chapter 388-106 WAC LONG-TERM CARE SERVICES
" WAC 388-106-1040 What requirements must a private duty RN, or LPN under the supervision of an RN, meet in order to provide and get paid for my PDN services?
11. Chapter 388-290 WORKING CONNECTIONS CHILD CARE
"
"
12. Chapter 388-805 WAC CERTIFICATION REQUIREMENTS FOR CHEMICAL DEPENDENCY SERVICE PROVIDERS

Department of Social and Health Services

DP Code/Title: PL-KG BCCU Request Legislation

Program Level - 010 Children's Administration

Budget Period: 2007-09 Version: A1 010 - 2007-09 Agency Request Budget

- " WAC 388-805-005 What definitions are important throughout this chapter?
- " WAC 388-805-015 How do I apply for certification as a chemical dependency service provider?
- " WAC 388-805-200 What must be included in an agency personnel manual?

13. Chapter 388-825 WAC DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES RULES

- " WAC 388-825-375 When will the department deny payment for services of an individual or home care agency providing respite care, attendant care, personal care, companion home services or alternative living services?
- " WAC 388-825-380 When can the department reject the client's choice of an individual respite care, attendant care or personal care provider?

14. Chapter 388-865 WAC COMMUNITY MENTAL HEALTH AND INVOLUNTARY TREATMENT PROGRAMS

- " WAC 388-865-0405 Competency requirements for staff.
- " WAC 388-865-0551 Qualification requirements for staff.

15. Chapter 388-890 WAC REHABILITATION SERVICES FOR INDIVIDUALS WITH DISABILITIES

- " RCW 43.43.830-.843 listed as statutory authority

16. Chapter 388-891 VOCATIONAL REHABILITATION SERVICES FOR INDIVIDUALS WITH DISABILITIES

- " RCW 43.43.832 listed as statutory authority in WAC 388-891-0510 through 388-891-1330.

RCW 43.43.830 listed as statutory authority.

- " WAC 388-15(CPS)-196; 19600; 19610; 19620; 19630; 19640; 19650; 19660; 19670; 19680; 198;
- " WAC 388-71-0500;-0505; 0510; 0515; 0546; 05640; 0560; 0513; 0520; 0551; 0556;
- " WAC 388-76-560
- " WAC 388-290-850; 854; 858; 862; 866; 870; 874; 878; 882; 886; 888; 900; 905; 910; 925; 940; 945;

RCW 43.43.832 listed as statutory authority

- " WAC 388-290-850; 854; 858; 862; 866; 870; 874; 878; 882; 886; 888; 900; 905; 910; 925; 940; 945;
- " WAC 388-891-0005; 0010; 0110; 0120; 0130; 0135; 0140; 0150; 0200; 0205; 0210; 0215; 0220; 0225; 0230; 0235; 0240; 0245; 0250; 0255; 0260; 0265; 0270; 0275; 0295; 0300; 0310; 0320; 0325; 0330; 0340; 0345; 0350; 0355; 0360; 0365; 0370; 0400; 0410; 0420; 0430; 0440; 0500; 0510; 0520; 0530; 0540; 0600; 0605; 0610; 0615; 0620; 0625; 0630; 0635; 0640; 0645; 0650; 0655; 0660; 0665; 0670; 0675; 0680; 0685; 0690; 0695; 0700; 0705; 0710; 0715; 0720; 0725; 0730; 0735; 0740; 0745; 0750; 0755; 0760; 0675; 0770; 0775; 0780; 0790; 0800; 0810; 0815; 0820; 0825; 0830; 0835; 0840; 0845; 0850; 0855; 0860; 0865; 0870; 0875; 0880; 0885; 0890; 0895; 0900; 0910; 0920; 0930; 0940; 0950; 0960; 0970; 0980; 1000; 1005; 1010; 1015; 1020; 1025; 1030; 1035; 1040; 1045; 1050; 1100; 1105; 1110; 1115; 1120; 1125; 1130; 1135; 1140; 1145; 1150; 1200; 1210; 1220; 1230; 1240; 1300; 1310; 1320; 1330

RCW 43.43.842 listed as statutory authority.

- " WAC 388-76-545; -560; -565 through -595; -600; -605; -610; -615; -620; -625; -630; 635 -640; -645; -650; -655 through -695; -700 through -760; -770 through -795.
- " WAC 388-71-513; -0520; -0546; -0551; -0556

Contract language for DSHS service providers will need to be amended to make background check requirements uniform for those serving vulnerable adults, juveniles and children.

Alternatives explored by agency:

Department of Social and Health Services

DP Code/Title: PL-KG BCCU Request Legislation
Program Level - 010 Children's Administration

Budget Period: 2007-09 Version: A1 010 - 2007-09 Agency Request Budget

The alternative to this legislation is to leave current background check statutes as currently written. The confusion and inconsistency created by multiple background check statutes has proved to be an option which must be corrected to benefit the department, providers and vulnerable people.

The proposed amendments will not change the department's current practice in conducting or processing background checks. The recheck requirements will increase the volume of checks that are processed through the BCCU.

There may be administrative costs to the providers associated with rechecks.

Budget impacts in future biennia:

The FTEs and associated costs will continue into future biennia.

Distinction between one-time and ongoing costs:

This increase is an on-going cost.

Effects of non-funding:

Without this legislation, the department will continue to enforce multiple laws and inconsistent practice for our service providers and department employees.

The department will continue to apply three crimes lists to service providers and department employees. DSHS employees will be held to a different background check standard than service providers. The department will be regulated by background check requirements located in WSP and DOP statutes.

Expenditure Calculations and Assumptions:

See attachment 'AW PL-KG BCCU Request Legislation.xls'.

<u>Object Detail</u>	<u>FY 1</u>	<u>FY 2</u>	<u>Total</u>
Overall Funding			
T Intra-Agency Reimbursements	4,000	4,000	8,000
<u>DSHS Source Code Detail</u>			
Overall Funding	<u>FY 1</u>	<u>FY 2</u>	<u>Total</u>
Fund 001-1, General Fund - Basic Account-State			
<u>Sources Title</u>			
0011 General Fund State	3,000	3,000	6,000
<i>Total for Fund 001-1</i>	<u>3,000</u>	<u>3,000</u>	<u>6,000</u>
Fund 001-A, General Fund - Basic Account-DSHS Fam Support/Chi			
<u>Sources Title</u>			
658L Title IV-E-Foster Care (50%)	1,000	1,000	2,000
<i>Total for Fund 001-A</i>	<u>1,000</u>	<u>1,000</u>	<u>2,000</u>
Total Overall Funding	<u>4,000</u>	<u>4,000</u>	<u>8,000</u>

AW PL-KG BCCU Request Legislation

Total Program Impact

Program	FY2008		
	State	Other	FY08
010	3,000	1,000	4,000
020	2,000	0	2,000
030	3,000	2,000	5,000
040	3,000	3,000	6,000
050	250,000	249,000	499,000
060	6,000	5,000	11,000
080	1,000	1,000	2,000
100	1,000	0	1,000
110	19,000	9,000	28,000
135	1,000	0	1,000
145	32,000	19,000	51,000
	321,000	289,000	610,000

State	FY2009		
	State	Other	FY09
	3,000	1,000	4,000
	2,000	0	2,000
	3,000	2,000	5,000
	3,000	3,000	6,000
	79,000	79,000	158,000
	6,000	5,000	11,000
	1,000	1,000	2,000
	1,000	0	1,000
	17,000	9,000	26,000
	1,000	0	1,000
	11,000	7,000	18,000
	127,000	107,000	234,000

State	Biennial		
	State	Other	FY09
	6,000	2,000	8,000
	4,000	0	4,000
	6,000	4,000	10,000
	6,000	6,000	12,000
	329,000	328,000	657,000
	12,000	10,000	22,000
	2,000	2,000	4,000
	2,000	0	2,000
	36,000	18,000	54,000
	2,000	0	2,000
	43,000	26,000	69,000
	448,000	396,000	844,000

Object Assumption: 100% of funds are Object T only for 010, 020, 030, 040, 060, 080, 100.

Object T cover costs due to background check workload due to rechecks, turnover, and new checks needed.

Object T:

Program	FY08	FY09
050	139,000	139,000
	Object T	

Non T:

Program	FY08	FY09
050	360,000	19,000
	Object N	

Rationale

Fair Hearing costs from the AAAs.

2007-09
AW PL-KG BCCU Request Legislation

Worksheet: Non-Employees

New Background Checks Needed

Cost Per Check: \$3.19

Program	Estimated Additional Checks	Cost by Program
010		0
020		0
030		0
040		0
050	43,000	137,000
060	834	3,000
070		0
080		0
100		0
110		0
135		0
150		0
Total:	43,834	140,000

2007-09
AW PL-KG BCCU Request Legislation

Worksheet: Turnover FY2006

Turnover Rate for DSHS in FY2006

Agencywide Turnover: **7.6%**
 Cost Per Check: **\$3.19**

Program	Number of Allotted FTEs	Estimated Turnover
010	2,407.2	183
020	1,134.8	86
030	2,901.5	221
040	3,322.7	253
050	1,142.9	87
060	4,372.7	332
070	118.8	9
080	1,106.2	84
100	347.2	26
110	710.4	54
135	438.7	33
150	147.3	11
Total:	18,150	1,379

Cost by Program (actual)	Cost by Program (rounded)
584	1,000
275	0
704	1,000
806	1,000
277	0
1,061	1,000
29	0
268	0
84	0
172	0
106	0
36	0
4,404	4,000

Turnover rate provided by DSHS/HRD.

2007-09
AW PL-KG BCCU Request Legislation

ReCheck Employees Every 2 Years

Cost Per Check: \$3.19

Cost is per Fiscal Year

Program	Number of Allotted FTEs	# of Checks per FY
010	2,407.2	1,204
020	1,134.8	567
030	2,901.5	1,451
040	3,322.7	1,661
050	1,142.9	571
060	4,372.7	2,186
070	118.8	59
080	1,106.2	553
100	347.2	174
110	710.4	355
135	438.7	219
150	147.3	74
Total:	18,150	9,075

Cost to Recheck (rounded)
\$4,000
\$2,000
\$5,000
\$5,000
\$2,000
\$7,000
\$0
\$2,000
\$1,000
\$1,000
\$1,000
\$0
\$30,000